

**Introduced by Senator Lowenthal**

(Principal coauthor: Assembly Member Garcia)

**(Coauthor: Senator Wiggins)**

(Coauthors: Assembly Members Mullin and Saldana)

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An act to add Chapter 8 (commencing with Section 13260) to Part 2 of Division 12 of the Health and Safety Code, relating to carbon monoxide.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1386, as introduced, Lowenthal. Carbon monoxide.

(1) Existing law requires the State Fire Marshal to adopt regulations and standards regarding the quality and installation of burglar bars and safety release mechanisms for emergency escape and rescue windows, the approval and installation of smoke detectors, and the approval of portable fire extinguishers for marketing, distribution, and sale in this state. Existing law requires a smoke detector approved and listed by the State Fire Marshal to be installed in a dwelling unit intended for human occupancy. Existing law also requires the transferor of real property containing a single-family dwelling to provide transferees written notice of compliance with specified requirements for the installation of smoke detectors.

This bill would additionally require the State Fire Marshal to approve carbon monoxide alarms for the use in dwelling units intended for human occupancy, as defined. The bill would require a carbon monoxide alarm to be installed in a dwelling unit intended for human occupancy, as specified. The bill would provide that a violation of these provisions is an infraction punishable by a maximum fine of \$200 for each offense.

By creating a new crime, this bill would create a state-mandated local program.

This bill would require an owner of a dwelling unit intended for human occupancy who rents or leases space to a tenant to test and maintain carbon monoxide alarms in that dwelling unit. The bill would also permit the owner to enter that dwelling unit to install, repair, test, and maintain carbon monoxide alarms, as specified. The bill would further require, on and after June 1, 2009, the transferor of real property containing a single-family dwelling to provide transferees written notice of compliance with specified requirements for the installation of carbon monoxide alarms, as specified. The bill would permit the State Fire Marshal to adopt regulations and standards regarding the quality and installation of carbon monoxide alarms, as specified. The bill would also make related legislative findings and declarations.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 8 (commencing with Section 13260) is  
2 added to Part 2 of Division 12 of the Health and Safety Code, to  
3 read:

4  
5 CHAPTER 8. CARBON MONOXIDE POISONING PREVENTION ACT  
6 OF 2008  
7

8 13260. This chapter shall be known and may be cited as the  
9 Carbon Monoxide Poisoning Prevention Act of 2008.

10 13261. The Legislature finds and declares all of the following:

11 (a) According to the Centers for Disease Control and Prevention,  
12 carbon monoxide is the leading cause of accidental poisoning  
13 deaths in the United States. Each year carbon monoxide kills more  
14 than 2,000 people and injures another 15,000 people nationwide.

15 (b) The State Air Resources Board estimates that every year  
16 carbon monoxide accounts for between 30 and 40 avoidable deaths,

1 possibly thousands of avoidable illnesses, and between 175 and  
2 700 avoidable emergency room and hospital visits.

3 (c) There are well-documented chronic health effects of acute  
4 carbon monoxide poisoning or prolonged exposure to carbon  
5 monoxide, including, but not limited to, lethargy, headaches,  
6 concentration problems, amnesia, psychosis, Parkinson's disease,  
7 memory impairment, and personality alterations.

8 (d) Experts estimate that equipping every home with two carbon  
9 monoxide alarms would cut accident related costs by 93 percent.  
10 Fifteen states and a number of large cities have already passed  
11 laws mandating the use of carbon monoxide alarms.

12 (e) Carbon monoxide alarms provide a vital, highly effective,  
13 and low-cost protection against carbon monoxide poisoning that  
14 should be made available to every home in California.

15 13262. For purposes of this chapter, the following definitions  
16 shall apply:

17 (a) "Carbon monoxide alarm" means a device that meets all of  
18 the following requirements:

19 (1) A device designed to detect carbon monoxide and produce  
20 a distinct, audible alarm.

21 (2) A device that is battery powered, a plug-in device with  
22 battery backup, or a device wired into the alternating current power  
23 line of the dwelling unit with a secondary battery backup.

24 (3) If the device is combined with a smoke detector, the  
25 combined device shall comply with all of the following:

26 (A) The standards that apply to carbon monoxide alarms as  
27 described in this chapter.

28 (B) The standards that apply to smoke detectors, as described  
29 in Section 13113.7.

30 (C) The combined device emits an alarm or voice warning in a  
31 manner that clearly differentiates between a carbon monoxide  
32 alarm warning and a smoke detector warning.

33 (4) The device is listed by a nationally recognized, independent,  
34 not-for-profit product safety testing and certification laboratory as  
35 conforming to the most recent standards set forth in Underwriters'  
36 Laboratories Inc., Standard UL 2034, or the Canadian Standard  
37 Association, Standard CSA 6.19.01.

38 (b) "Dwelling unit intended for human occupancy" includes a  
39 single-family dwelling, factory-built home as defined in Section  
40 19971, duplex, lodging house, dormitory, apartment complex,

1 hotel, motel, condominium, stock cooperative, time-share project,  
2 or dwelling unit of a multiple-unit dwelling complex.

3 (c) “Fossil fuel” means coal, kerosene, oil, wood, fuel gases,  
4 and other petroleum or hydrocarbon products, which emit carbon  
5 monoxide as a byproduct of combustion.

6 13263. (a) A carbon monoxide alarm, approved and listed by  
7 the State Fire Marshal pursuant to Section 13266, shall be installed,  
8 in accordance with the manufacturer’s instructions, in each  
9 dwelling intended for human occupancy having a fossil fuel  
10 burning heater or appliance, fireplace, or an attached garage, within  
11 the earliest applicable time period as follows:

12 (1) For dwelling units intended for human occupancy, upon the  
13 owner’s application or after June 1, 2009, for a permit for  
14 alterations, repairs, or additions, exceeding one thousand dollars  
15 (\$1,000).

16 (2) For dwelling units intended for human occupancy upon sale  
17 or transfer on or after June 1, 2009.

18 (3) For all other dwelling units intended for human occupancy  
19 on or after June 1, 2010.

20 (b) A violation of this section is an infraction punishable by a  
21 maximum fine of two hundred dollars (\$200) for each offense.

22 (c) A local ordinance requiring carbon monoxide alarms in a  
23 single-family dwelling may be enacted or amended if the ordinance  
24 satisfies the minimum requirements of this chapter.

25 13264. (a) An owner of a dwelling unit intended for human  
26 occupancy who rents or leases space to a tenant shall test and  
27 maintain carbon monoxide alarms in that dwelling unit.

28 (b) An owner or the owner’s agent may enter any dwelling unit,  
29 efficiency dwelling unit, guest room, and suite owned by the owner  
30 for the purpose of installing, repairing, testing, and maintaining  
31 single station carbon monoxide alarms required by this section.  
32 Except in cases of emergency, the owner or owner’s agent shall  
33 give the tenants of each unit, room, or suite reasonable notice in  
34 writing of the intention to enter and shall enter only during normal  
35 business hours. Twenty-four hours shall be presumed to be  
36 reasonable notice in the absence of evidence to the contrary.

37 (c) The carbon monoxide alarm shall be operable at the time  
38 that the tenant takes possession. A tenant shall be responsible for  
39 notifying the manager or owner if the tenant becomes aware of an  
40 inoperable carbon monoxide alarm within his or her unit. The

owner or authorized agent shall correct any reported deficiencies in the carbon monoxide alarm and shall not be in violation of this section for a deficient carbon monoxide alarm when he or she has not received notice of the deficiency.

(d) This section shall not affect any rights which the parties may have under any other provision of law because of the presence or absence of a carbon monoxide alarm.

13265. (a) On and after June 1, 2009, the transferor of any real property containing a single-family dwelling, as described in subdivision (b) of Section 13262, whether the transfer is made by sale, exchange, or real property sales contract, as defined in Section 2985 of the Civil Code, shall deliver to the transferee a written statement indicating that the transferor is in compliance with this chapter. The disclosure statement shall be either included in the receipt for deposit in a real estate transaction, an addendum attached thereto, or a separate document.

(b) The transferor shall deliver the statement referred to in subdivision (a) as soon as practicable before the transfer of title, in the case of a sale or exchange, or prior to execution of the contract where the transfer is by a real property sales contract, as defined in Section 2985 of the Civil Code. For purposes of this subdivision, “delivery” means delivery in person or by mail to the transferee or transferor, or to a person authorized to act for him or her in the transaction, or to additional transferees who have requested delivery from the transferor in writing. Delivery to the spouse of a transferee or transferor shall be deemed delivery to a transferee or transferor, unless the contract states otherwise.

(c) This section does not apply to any of the following:

(1) Transfers that are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(2) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(3) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by a foreclosure sale after default, transfers by a foreclosure sale after default in an obligation secured by a mortgage, or transfers

1 by a sale under a power of sale after a default in an obligation  
2 secured by a deed of trust or secured by any other instrument  
3 containing a power of sale.

4 (4) Transfers by a fiduciary in the course of the administration  
5 of a decedent's estate, guardianship, conservatorship, or trust.

6 (5) Transfers from one coowner to one or more coowners.

7 (6) Transfers made to a spouse, or to a person or persons in the  
8 lineal line of consanguinity of one or more of the transferors.

9 (7) Transfers between spouses resulting from a decree of  
10 dissolution of a marriage, from a decree of legal separation, or  
11 from a property settlement agreement incidental to either of those  
12 decrees.

13 (8) Transfers by the Controller in the course of administering  
14 the Unclaimed Property Law provided for in Chapter 7  
15 (commencing with Section 1500) of Title 10 of Part 3 of the Code  
16 of Civil Procedure.

17 (9) Transfers under the provisions of Chapter 7 (commencing  
18 with Section 3691) or Chapter 8 (commencing with Section 3771)  
19 of Part 6 of Division 1 of the Revenue and Taxation Code.

20 (d) Liability shall not arise, and an action shall not be brought  
21 or maintained against, an agent of a party to a transfer of title,  
22 including a person or entity acting in the capacity of an escrow,  
23 for any error, inaccuracy, or omission relating to the disclosure  
24 required to be made by a transferor pursuant to this section.  
25 However, this subdivision does not apply to a licensee, as defined  
26 in Section 10011 of the Business and Professions Code, where the  
27 licensee participates in the making of the disclosure required to  
28 be made pursuant to this section with actual knowledge of the  
29 falsity of the disclosure.

30 (e) Except as otherwise provided in this section, this section  
31 shall not be deemed to create or imply a duty upon a licensee, as  
32 defined in Section 10011 of the Business and Professions Code,  
33 or upon any agent of any party to a transfer of title, including any  
34 person or entity acting in the capacity of an escrow, to monitor or  
35 ensure compliance with this section.

36 (f) A transfer of title shall not be invalidated on the basis of a  
37 failure to comply with this section, and the exclusive remedy for  
38 the failure to comply with this section is an award of actual  
39 damages not to exceed one hundred dollars (\$100), exclusive of  
40 court costs and attorney's fees.

1     13266. (a) The State Fire Marshal, with the advice of the State  
2 Board of Fire Services and the State Air Resources Board, may  
3 adopt regulations and standards as he or she may determine to be  
4 necessary to control the quality and installation of carbon monoxide  
5 alarms distributed, offered for sale, or sold in this state.

6     (b) Notwithstanding subdivision (a), a person shall not market,  
7 distribute, offer for sale, or sell any carbon monoxide alarms in  
8 this state unless the system or device has been approved and listed  
9 by the State Fire Marshal.

10    SEC. 2. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.